

52:17B-78. Short title

This act shall be known as, and may be cited as, the "State Medical Examiner Act."

52:17B-79. Office of state medical officer; creation; state medical examiner; qualifications; appointment; term; compensation; employees and assistants

There is hereby established in the Division of Criminal Justice in the State Department of Law and Public Safety the office of the "State Medical Examiner" which shall be under the immediate supervision of an officer to be known as the State Medical Examiner who shall be a duly licensed physician, a graduate of a regularly chartered and legally constituted medical school or college and a qualified forensic pathologist. He shall be appointed by the Governor, with the advice and consent of the Senate, and shall serve for a term of 5 years and until his successor is appointed and has qualified. He shall receive such salary as shall be provided by law. The Attorney General shall, subject to provisions of Title 11 of the Revised Statutes relating to Civil Service, appoint such other personnel as he may consider necessary for the efficient performance of the work of the division. He shall prescribe the duties of all such persons thus appointed and shall fix their compensation within the limits of available appropriations.

52:17B-79.1. Continuation in office of state medical officer

The State Medical Examiner in office shall continue in office for the term for which appointed and until his successor is appointed.

52:17B-79.2. Transfer to office of state medical examiner from division of state medical examination; method

The transfer to be made pursuant to this act shall be made in accordance with the "State Agency Transfer Act," P.L.1971, c. 375 (C. 52:14D-1 et seq.).

52:17B-80. Supervision and enforcement; rules and regulations

The State Medical Examiner shall have general supervision over the administration of and shall enforce the provisions of this act. He shall have general supervision over all county medical examiners. He shall promulgate such rules and regulations as he may deem necessary to effectuate the provisions of this act.

52:17B-81. Facilities, equipment and supplies

The Attorney General shall provide the State Medical Examiner with such laboratories, furniture, equipment, records and supplies as may be required in the conduct of his office. The Attorney General may, if he deems it advisable to do so, enter into agreements with the State Department of Health or with any State-operated college or school of medicine or public hospital for the use of certain of its laboratories, morgues and other technical facilities, and space in its buildings as offices and laboratories for the State Medical Examiner and his staff. In the discretion of the Attorney General, the State Medical Examiner and his assistants may be made available to such educational institutions for the teaching of legal medicine and other subjects closely related to their duties.

52:17B-82. Repealed by L.1978, c. 34, § 4, eff. June 19, 1978

52:17B-83. Office of county medical examiner; appointment of examiner; term

The office of county medical examiner is hereby created and shall be maintained in each county, except that several counties may jointly maintain the office on a cooperative basis. The office shall be directed by a county medical examiner who shall be appointed by the board or boards of chosen freeholders of the county or counties maintaining such office for a term of five years; provided, however, that any person in office as county physician or chief medical examiner on the effective date of this act shall continue as county medical examiner until the expiration of the term for which he was appointed. The county medical examiner shall be a licensed physician, of recognized ability and good standing in his community, with such training or experience as may be prescribed by standards promulgated by the State Medical Examiner by rule or regulation.

If the board of chosen freeholders shall fail to appoint a county medical examiner or if the office of county medical examiner shall become vacant or upon the written request of any assignment judge of the Superior Court or of the board of chosen freeholders of the county, the State Medical Examiner shall designate one of his assistants to perform the duties of the office. Whenever the State Medical Examiner shall have taken over the duties of a county medical examiner, he shall have all the authority conferred by law upon a county medical examiner and he may appoint such assistants, aides, investigators or other personnel as he may deem necessary. In such event, the treasurer of the county or counties, as the case may be, shall reimburse the Office of the State Medical Examiner or its designee for all costs incurred in properly conducting the county's death investigations and performing all other functions of the county medical examiner.

The State Medical Examiner may promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.) to effectuate the purposes of this section.

52:17B-84. Deputy or assistant county medical examiners; appointment

The county medical examiner may, subject to the approval of the board of chosen freeholders, appoint and prescribe the duties of such deputy or assistant county medical examiners and other personnel required for the proper performance of the duties of the office. The deputy and assistant county medical examiners shall be licensed physicians and shall possess such qualifications as shall be determined by the county medical examiner after consultation with the State Medical Examiner.

52:17B-85. Salaries and expenses; quarters and equipment

The salaries and expenses incurred by the office of county medical examiner shall be included in the annual budget of the county or counties served by such office and the respective boards of chosen freeholders shall fix the compensation to be paid the county medical examiner, deputy and assistant medical examiners and other personnel of the office. The board or boards of chosen freeholders shall provide suitable quarters and equipment necessary for the performance of the duties of the office of county medical examiners.

52:17B-86. Investigation of deaths; causes

An investigation shall be conducted in the manner hereinafter described in the case of all human deaths from the following causes:

- a. Violent deaths, whether apparently homicidal, suicidal or accidental, including but not limited to death due to thermal, chemical, electrical or radiation injury and deaths due to criminal abortion, whether apparently self-induced or not;
- b. Deaths not caused by readily recognizable disease, disability or infirmity;
- c. Deaths under suspicious or unusual circumstances;
- d. Deaths within 24 hours after admission to a hospital or institution;
- e. Deaths of inmates of prisons;
- f. Deaths of inmates of institutions maintained in whole or in part at the expense of the State or county, where the inmate was not hospitalized therein for organic disease;
- g. Deaths from causes which might constitute a threat to public health;
- h. Deaths related to disease resulting from employment or to accident while employed; and
- i. Sudden or unexpected deaths of infants and children under 3 years of age and fetal deaths occurring without medical attendance.

52:17B-87. Notification of county medical examiner and prosecutor

Upon the death of any person from any of the causes mentioned in section 9 of this act [FN1] it shall be the duty of the physician in attendance, any law enforcement officer having knowledge of such death, the funeral director, or any other person present, to notify immediately the county medical examiner and the county prosecutor of the county wherein the death occurred of the known facts concerning the time, place, manner and circumstances of such death. Immediately upon receipt of such notification, the said medical examiner or his deputy or assistant shall go to the dead body and take charge of the same. He shall fully investigate the essential facts concerning the medical causes of death and take the names and addresses of as many witnesses thereto as may be practicable to obtain, and, before leaving the premises shall reduce such facts, as he may deem necessary to writing and file the same in his office and which shall be made available to the county prosecutor at his request. The police officer present at such investigation, or if no officer be present, then the medical examiner shall, in the absence of the next of kin of the deceased person, take possession of all property of value found on such person, make an exact inventory thereof on his report and deliver such property to the police department of the municipality wherein the death occurred, which shall surrender the same to the person entitled to its custody or possession. The medical examiner shall take possession of any objects or articles which, in his opinion, may be useful in establishing the cause of death, and deliver them to the county prosecutor.

[FN1] [N.J.S.A. § 52:17B-86.](#)

52:17B-88. Findings; report; autopsy; conclusions; copy to closest surviving relative; transportation of body

If the cause of such death shall be established beyond a reasonable doubt, the county medical examiner shall reduce his findings to writing and promptly make a full report thereof to the State Medical Examiner and to the county prosecutor on forms to be prescribed by the State Medical Examiner for such purpose. If, however, in the opinion of the county medical examiner, the State Medical Examiner, an assignment judge of the Superior Court, the county prosecutor or the Attorney General, an autopsy is necessary, or if, in cases where the suspected cause of death of a child under one year of age is sudden infant death syndrome or the child is between one and three years of age and the death is sudden and unexpected, and an investigation has been conducted under the provisions of section 9 of P.L.1967, c. 234 (C.52:17B-86), and the parent, parents or legal guardian of the child request an autopsy, the same shall be performed, by (1) the State Medical Examiner, or an assistant designated by him or by (2) the county medical examiner or a deputy or assistant county medical examiner provided either has the recognized training or experience in forensic pathology or by (3) such competent forensic pathologists as may be authorized by the State Medical Examiner; except that when the suspected cause of death of a child under one year of age is sudden infant death syndrome or the child is between one and three years of age and the death is sudden and unexpected, upon the request of the parent, parents or legal guardian of the child, a pediatric pathologist, if available, shall assist in the performance of the autopsy under the direction of a forensic pathologist. The county medical examiner shall notify the parent, parents or legal guardian of the child that they may request that a pediatric pathologist assist in the performance of the autopsy. A detailed description of the findings written during the progress of such autopsy and the conclusions drawn therefrom shall thereupon be filed in the offices of the State Medical Examiner, the county medical examiner and the county prosecutor. The county medical examiner shall make available a copy of these findings and conclusions to the closest surviving relative of the decedent within 90 days of the receipt of a request therefor, unless the death is under active investigation by a law enforcement agency. If the suspected cause of death of a child under one year of age is sudden infant death syndrome or if the child is between one and three years of age and the death is sudden and unexpected, the findings and conclusions shall be reported to the child's parent, parents or legal guardian and the State Department of Health and Senior Services within 48 hours after the death of the child.

It shall be the duty of any county medical examiner to call upon the State Medical Examiner or an assistant State medical examiner, or other person authorized and designated by the State Medical Examiner, to make an examination or perform an autopsy whenever he deems it necessary or desirable, and it shall be the duty of the State Medical Examiner or assistant State medical examiner to perform such examination, except in such cases as a competent pathologist is so authorized by the State Medical Examiner to perform such autopsy. The necessary expenses for transportation of a body for autopsy by the State Medical Examiner or an assistant State medical examiner or an authorized pathologist and such reasonable fee payable to the authorized pathologist as has been approved by the State Medical Examiner for each autopsy such authorized pathologist may perform shall be paid by the State.

52:17B-88.1. Definitions

As used in this act:

a. "Compelling public necessity" means

(1) That the dissection or autopsy is essential to the criminal investigation of a homicide of which the decedent is the victim; or

- (2) That the discovery of the cause of death is necessary to meet an immediate and substantial threat to the public health and that a dissection or autopsy is essential to ascertain the cause of death; or
 - (3) That the death was that of an inmate of a prison, jail or penitentiary; or
 - (4) That the death was that of a child under the age of 12 years suspected of having been abused or neglected or suspected of being a threat to public health, and the cause of whose death is not apparent after diligent investigation by the medical examiner; or
 - (5) That the need for a dissection or autopsy is established pursuant to the provisions of section 4 of this act. [FN1]
- b. "Friend" means any person who, prior to the decedent's death, maintained close contact with the decedent sufficient to render that person knowledgeable with the decedent's activities, health and religious beliefs; and who presents an affidavit stating the facts and circumstances upon which the claim that the person is a friend is based and stating that the person will assume responsibility for the lawful disposition of the body of the deceased.

[FN1] [N.J.S.A. § 52:17B-88.4.](#)

52:17B-88.2. Dissection or autopsy: contrary to decedents' religious beliefs

Notwithstanding any other provision of law to the contrary, no dissection or autopsy shall be performed, in the absence of a compelling public necessity, over the objection of a member of the deceased's immediate family or in the absence thereof, a friend of the deceased that the procedure is contrary to the religious belief of the decedent or if there is an obvious reason to believe that a dissection or autopsy is contrary to the decedent's religious beliefs.

52:17B-88.3. Waiting period

Whenever, in the opinion of a medical examiner, there is a compelling public necessity under paragraphs (1), (2), (3), and (4) of subsection a. of section 1 of this act to perform an autopsy or dissection, and a member of the deceased's immediate family or, in the absence thereof, a friend objects that the autopsy or dissection is contrary to the religious beliefs of the deceased or there is an obvious reason to believe that the autopsy or dissection is contrary to the religious beliefs of the deceased, then no dissection or autopsy shall be performed until 48 hours after notice thereof is given by the medical examiner to the objecting party, or, if there is no objecting party, to such party as the court may name. During that 48-hour period, the objecting party or the party named by the court may institute action in the Superior Court to determine the propriety of the dissection or autopsy, but the court may dispense with the waiting period upon ex parte motion if it determines that the delay may prejudice the accuracy of the autopsy or dissection.

52:17B-88.4. Action by medical examiner for order authorizing autopsy or dissection

Whenever, in the opinion of a medical examiner, there is a compelling public necessity in circumstances not provided for in paragraphs (1), (2), (3) and (4) of section 1 of this act [FN1] to perform an autopsy or dissection; and a member of the deceased's immediate family or, in the absence thereof, a friend objects that the autopsy or dissection is contrary to religious beliefs of the deceased or there is an obvious reason to believe that the autopsy or dissection is contrary to

the religious beliefs of the deceased, then the medical examiner may institute an action in the Superior Court for an order authorizing the autopsy or dissection. The action shall be instituted by an order to show cause on notice to the member of the deceased's immediate family or friend, or if none is known, then to such party as the court may direct.

[FN1] [N.J.S.A. § 52:17B-88.1.](#)

52:17B-88.5. Priority of action; summary nature of action; permission granted or denied

Any action brought pursuant to the provisions of this act shall have preference over all other cases and shall be determined summarily upon the petition and oral or written proof, if any, offered by the parties. The court shall permit the autopsy or dissection to be performed if it finds that the medical examiner established a compelling public necessity for the autopsy or dissection under all of the circumstances of the case or if the objecting party or party named by the court fails to swear or affirm that an autopsy or dissection would be contrary to the deceased's religious beliefs. If permission to perform an autopsy or dissection is denied and no stay is granted by the court or by the appellate division, the body shall immediately be released for burial.

52:17B-88.6. Intrusiveness of autopsy or dissection

A dissection or autopsy performed pursuant to this act shall be the least intrusive procedure consistent with the compelling public necessity.

52:17B-88.7. Autopsy and organ or tissue analysis to be performed in manner calculated to preserve organs or tissues for proposed organ donation

Notwithstanding any provision of law to the contrary, if a deceased person whose death is under investigation pursuant to section 9 of P.L.1967, c. 234 (C. 52:17B-86) is a donor of all or part of his body as evidenced by an advance directive, will, card or other document, or as otherwise provided in the "Uniform Anatomical Gift Act," P.L.1969, c. 161 (C. 26:6-57 et seq.), the State Medical Examiner or the county medical examiner, or his designee, who has notice of the donation shall perform an examination, autopsy or analysis of tissues or organs only in a manner and within a time period compatible with their preservation for the purposes of transplantation.

52:17B-88.8. Removal of anatomical gift from donor whose death is under investigation; procedures; biopsy of tissues or organs possibly involved in cause of death

A health care professional authorized to remove an anatomical gift from a donor whose death is under investigation pursuant to section 9 of P.L.1967, c. 234 (C. 52:17B-86), may remove the donated part from the donor's body for acceptance by a person authorized to become a donee, after giving notice to the State Medical Examiner or the county medical examiner, or his designee, if the examination, autopsy or analysis has not been undertaken in the manner and within the time provided in section 1 of this act. [FN1] The State Medical Examiner or the county medical examiner, or his designee shall be present during removal of the anatomical gift if in his judgment those tissues or organs may be involved in the cause of death. In that case, the State Medical Examiner or the county medical examiner, or his designee, may request a biopsy of those tissues or organs or deny removal of the anatomical gift. The State Medical Examiner or the county medical examiner, or his designee, shall explain in writing his reasons for determining that those

tissues or organs may be involved in the cause of death and shall include the explanation in the records maintained pursuant to section 15 of P.L.1967, c. 234 (C. 52:17B-92).

[FN1] [N.J.S.A. § 52:17B-88.7.](#)

52:17B-88.9. Report to the state medical examiner

The health care professional performing a transplant from a donor whose death is under investigation pursuant to section 9 of P.L.1967, c. 234 (C. 52:17B-86) shall file with the State Medical Examiner a report detailing the condition of the part of the body that is the anatomical gift and its relationship to the cause of death. If appropriate, the report shall include a biopsy or medically approved sample from the anatomical gift. The report shall become part of the Medical Examiner's report.

52:17B-88.10. Standardized protocol for SIDS autopsies

a. The State Medical Examiner, in consultation with the Commissioner of Health and Senior Services, shall develop standardized protocols for autopsies performed in those cases in which the suspected cause of death of a child under one year of age is sudden infant death syndrome and in which the child is between one and three years of age and the death is sudden and unexpected.

b. The State Medical Examiner shall establish a Sudden Child Death Autopsy Protocol Committee to assist in developing and reviewing the protocol. The committee shall include, but shall not be limited to, the State Medical Examiner or his designee, the Assistant Commissioner of the Division of Family Health Services in the Department of Health and Senior Services or his designee, the Director of the Division of Youth and Family Services in the Department of Human Services or his designee, the director of the SIDS Resource Center established pursuant to P.L.1987, c. 331 (C.26:5D-4), an epidemiologist, a forensic pathologist, a pediatric pathologist, a county medical examiner, a pediatrician who is knowledgeable about sudden infant death syndrome and child abuse, a law enforcement officer, an emergency medical technician or a paramedic, a family member of a sudden infant death syndrome victim and a family member of a sudden unexpected death victim who was between one and three years of age at the time of death.

The committee shall annually review the protocol and make recommendations to the State Medical Examiner to revise the protocol, as appropriate.

c. The protocols shall include requirements and standards for scene investigation, criteria for ascertaining the cause of death based on autopsy, criteria for specific tissue sampling, and such other requirements as the committee deems appropriate. The protocols shall take into account nationally recognized standards for pediatric autopsies.

The State Medical Examiner shall be responsible for ensuring that the protocols are followed by all medical examiners and other persons authorized to conduct autopsies in those cases in which the suspected cause of death is sudden infant death syndrome or in which the child is between one and three years of age and the death is sudden and unexpected.

d. The protocols shall authorize the medical examiner or other authorized person to take tissue samples for research purposes if the parent, parents or legal guardian of the deceased child provides written consent for the taking of tissue samples for research purposes.

e. The sudden infant death syndrome autopsy protocol shall provide that if the findings in the autopsy are consistent with the definition of sudden infant death syndrome specified in the protocol, the person who conducts the autopsy shall state on the death certificate that sudden infant death syndrome is the cause of death.

52:17B-89. Report of death; violation

Any person who may become aware of any death by criminal violence or by accident or suicide or in any suspicious or unusual manner, shall report such death to the office of county medical examiner, the office of State Medical Examiner, or to the police department of the municipality in which such person died.

Any person who shall willfully neglect or refuse to report such death, or who, without an order from the office of county medical examiner or the office of State Medical Examiner, shall willfully touch, remove or disturb the body of any such person, or touch, remove or disturb the clothing upon or near such body, is a disorderly person.

52:17B-90. Co-operation in investigation and autopsy

a. All law enforcement officers, county prosecutors and other officials shall co-operate fully with the offices of the State Medical Examiner and of the county medical examiners in making the investigations and conducting the autopsies herein provided. Such officials and all physicians, funeral directors, embalmers and other persons shall assist in making dead bodies and related evidence available to such medical examiners for investigations and autopsies.

In cases of apparent homicide or suicide, or of accidental death the cause of which is obscure, the scene of the event shall not be disturbed until authorization by the medical examiner in charge is given.

b. Any physician, funeral director embalmer or other person who willfully fails to comply with this section or with section 10 shall be guilty of a misdemeanor.

52:17B-91. Power to administer oaths and affirmations; affidavits and examinations

The State Medical Examiner, the assistant State medical examiners and the county medical examiners, shall have the power to administer oaths and affirmations, and take affidavits and make examinations as to any matter within the jurisdiction of their respective offices.

52:17B-92. Records of medical examiners; use as evidence; right to copies

It shall be the duty of the State Medical Examiner, and the county medical examiners, to keep full and complete records in their respective offices, properly indexed, giving the name, if known, of every such person, the place where the body was found, date and cause of death, and all other available information relating thereto. The original report of the State Medical Examiner, assistant State medical examiners, or county medical examiners, and the detailed findings of the autopsy, if any, shall be attached to the record of each case. The State Medical Examiner, or in case of his absence or inability, an assistant State medical examiner, and the county medical examiners, shall promptly deliver to the county prosecutor of the county wherein the death occurred copies of all records relating to every death in which, in the judgment of such medical examiner, further investigation may be deemed advisable. The county prosecutor may obtain

from the office of the State Medical Examiner, or of the county medical examiners, as the case may be, copies of such records or other information which he may deem necessary. The records of the office of the State Medical Examiner, and of the county medical examiners, made by themselves or by anyone under their direction or supervision, or transcripts thereof certified by such medical examiner, shall be received as competent evidence in any court in this State of the matters and facts therein contained. A reasonable fee may be charged to private persons for copies of such records and upon such conditions as may be prescribed by the State Medical Examiner; provided, however, that no person with a proper interest in such records shall be denied access thereto. All such fees collected by the State Medical Examiner and county medical examiners shall be paid into the State Treasury or county treasury, respectively, on or before the tenth day of each month. The records which shall be admissible as evidence under this section shall be records of the results of views and examinations of or autopsies upon the bodies of deceased persons by such medical examiner, or by anyone under his direct supervision or control, and shall not include statements made by witnesses or other persons.

52:17B-93. Offices of coroner, county physician and chief medical examiner; abolition

The offices of coroner, county physician and chief medical examiner are hereby abolished but the powers and duties of said offices except insofar as they may be inconsistent with this act are continued and shall be exercised through the office of county medical examiner.

52:17B-94. Repeal of inconsistent acts

All acts and parts of acts inconsistent with this act are hereby superseded and repealed.

Current through L.2005, c. 1 to 92